IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF SOUTH CAROLINA COLUMBIA DIVISION

Donne Alewine White, and William Gary) C/A No. 3:12-1808-JFA-PJG
White, III,	
Plaintiffs,)) DEPORT AND DECOMMENDATION
) REPORT AND RECOMMENDATION
VS.	
)
Chase Mortgage Company,)
)
Defendant.)
)

On March 3, 2014, the defendant in this civil action filed a motion for summary judgment pursuant to the Federal Rules of Civil Procedure. (ECF No. 34.) On March 21, 2014, the court issued an order advising the plaintiffs, one of whom is a self-represented attorney, that it appeared to the court that they were not opposing the motion and wished to abandon this action, and giving the plaintiffs an additional seven (7) days in which to file a response to the defendant's motion for summary judgment. (ECF No. 37.) The plaintiffs were specifically warned that if they failed to respond, this action may be decided on the record presented in support of the defendant's motion, see Local Civil Rule 7.06 DSC, or may be recommended for dismissal with prejudice for failure to prosecute. See Davis v. Williams, 588 F.2d 69, 70 (4th Cir. 1978); Fed. R. Civ. P. 41(b). Despite this warning, the plaintiffs still did not respond. Therefore, the plaintiffs meet all of the criteria for dismissal under Chandler Leasing Corp. v. Lopez, 669 F.2d 919 (4th Cir. 1982).

¹ They are personally responsible for proceeding in a dilatory fashion, the defendant is suffering prejudice by continuing to have these claims clouding its career and continuing to incur legal expenses, and no sanctions appear to exist other than dismissal given the previous warnings and extensions provided. Chandler Leasing Corp., 669 F.2d at 920.



RECOMMENDATION

Accordingly, it is recommended that this action be dismissed with prejudice for lack of prosecution. See Davis, 588 F.2d at 70; Ballard v. Carlson, 882 F.2d 93, 95 (4th Cir. 1989) (stating that magistrate judge's prior explicit warning that a recommendation of dismissal would result from the plaintiff failing to obey his order was proper grounds for the district court to dismiss the suit when the plaintiff did not comply despite the warning), cert. denied sub nom, Ballard v. Volunteers of America, 493 U.S. 1084 (1990); Fed. R. Civ. P. 41(b). In light of the court's recommendation, the court further recommends that any pending motions (ECF No. 34) be terminated.

Paige J. Gossett

UNITED STATES MAGISTRATE JUDGE

April 1, 2014 Columbia, South Carolina

The parties' attention is directed to the important notice on the next page.

Notice of Right to File Objections to Report and Recommendation

The parties are advised that they may file specific written objections to this Report and Recommendation with the District Judge. Objections must specifically identify the portions of the Report and Recommendation to which objections are made and the basis for such objections. "[I]n the absence of a timely filed objection, a district court need not conduct a de novo review, but instead must 'only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation." <u>Diamond v. Colonial Life & Acc. Ins. Co.</u>, 416 F.3d 310 (4th Cir. 2005) (quoting Fed. R. Civ. P. 72 advisory committee's note).

Specific written objections must be filed within fourteen (14) days of the date of service of this Report and Recommendation. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b); see Fed. R. Civ. P. 6(a), (d). Filing by mail pursuant to Federal Rule of Civil Procedure 5 may be accomplished by mailing objections to:

Robin L. Blume, Clerk United States District Court 901 Richland Street Columbia, South Carolina 29201

Failure to timely file specific written objections to this Report and Recommendation will result in waiver of the right to appeal from a judgment of the District Court based upon such Recommendation. 28 U.S.C. § 636(b)(1); Thomas v. Arn, 474 U.S. 140 (1985); Wright v. Collins, 766 F.2d 841 (4th Cir. 1985); United States v. Schronce, 727 F.2d 91 (4th Cir. 1984).